

SHARP WARNING FROM THE JUDGE

(Continued From First Page.)

lived. Mr. Smith entered first, took hands and chatted, smilingly for a moment with the prisoner. The record was read by Clerk DuVal, to which Mr. Smith listened attentively. The jury was called. Mr. Page still looking very unwell, entered the court and stated that he desired to express his thanks for the courtesy that had been shown him, and said:

"I desire to say that I can give every reasonable assurance that the case will not be further delayed on my account. Mrs. Turner, who had been desperately ill, came into court and continued her testimony."

Mr. Page asked regarding the intimacy that existed between the family of the Smiths and the Turner household.

"There was great intimacy. The children came back and forth."

"What did you state about hearing rumbling sounds?"

"They sounded like the falling of a child."

"How many times did you hear them?"

"Twice."

"What was the difference in her treatment of her children?"

"She treated Carroll good and was rough to Ralph?"

"How did she correct the younger child?"

"She used a little switch and struck him on the back."

"Did you ever see Mrs. Smith strike Ralph with a mallet?"

"Yes, when she was teaching him and he could not remember."

"How hard did she hit him?"

"With all her strength."

"What did you say about her tying

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particular friend up to the night of Ralph's death?"

"Yes."

"You say you heard the rumbling noises twice?"

"Yes, lots of times."

"Mr. Page asked you the question and you said only twice. Is that so?"

"He misunderstood me."

(Mr. Smith asked the official stenographer to read the record. It developed that witness had said "only twice.")

"You say that you saw her strike him with a mallet?"

"Yes."

"And now you say that it was the handle to a child's toy shovel?"

"No, I did not."

(Record was read and witness had said child's toy shovel handle.)

Mrs. Turner at this point said to Mr. Smith:

"Don't worry me."

Mr. Smith: "I have no intention of worrying you."

Mrs. Turner: "You had better not."

"Did you say you saw her whip him with a razor strap?"

"No, I did not."

(Mr. Smith asked that record be read. Record showed that "razor strap" was

"Did you help the boy who you say she threw on the sofa like a little dog?"

"No, I didn't. I'm no servant."

"But you said you were her particular friend?"

"Yes, but she treated him like a dog. I wouldn't treat my dog or cat like she did Ralph."

"Although she starved him and beat him, shoved him in a tub of water and treated him like a dog, you remained her particular friend?"

"Yes."

(Witness. You are trying to make me out a liar.)

"Did you ever see Mr. Smith whip Ralph?"

"Yes. I saw him hit Ralph three times with a piece of board."

Mr. H. M. Smith then stated that he would not examine Mrs. Turner further on account of her health. He said he had many questions he would like to ask, but that he would not.

Re-examination by Mr. Page.

"When did I meet your two children?" (Court ruled out the question.)

Mrs. Turner then left the stand. She looked ill and was taken at once to her home. All the time she was on the stand she was fanned by a friend.

seemed to be under a nervous strain all the time."

"Did you ever see any difference in the treatment of the two children while they were with you?"

"No, sir."

"Do you know anything about the child's hair?"

"Yes, his hair kept dropping out. I have seen it drop out. I never saw any one pull it out."

"Was the child a clumsy child?"

"Yes. If he tried to run he would fall down. He would fall down in crossing the floor. He would never play with other children."

Cross Examination.

Cross-examination by Mr. Page: "Where were you living in Brooklyn when you met Mrs. Smith?"

"With my wife's aunt, Mrs. Hughes."

"Was Mrs. Smith boarding there?"

"No, sir; she was a friend of Mrs. Hughes."

"When did you leave?"

"December 20, 1899."

"Where did you meet Mr. Smith?"

"At my house in the summer of 1899."

"When did your wife know Mrs. Smith?"

"As children on Staten Island."

"Are you connected with the Smiths?"

"No, sir; none whatever."

"When did you first become aware of the evil practice of the child?"

"Soon after they came to live with us in Fluvanna county."

"Did they ever tell you where they were married?"

"Yes, in New York."

"You say you watched the child to see if he was addicted to evil practices?"

"Yes."

"Why?"

"Because I have three small children, and I would rather see them all dead than have one of them follow the habits of the child, answering questions of Mr. Page."

Re-examination by Mr. Smith:

"What were the symptoms of the boy?"

"He was nervous. He cried when any



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WITNESSES IN THE SMITH MURDER TRIAL MEETING IN COURT OF HUSBAND AND WIFE



Ralph?"

"Yes, she tied him and threw him on a sofa and went to Richmond for two or three hours."

"Did you ever see any burns on him?"

"Yes, on his hand."

"Did you see Mrs. Smith treat him badly during the winter?"

"Yes, I saw her throw him in a tub of water in February."

"I was on my back porch and I saw her come out and push him head first into a tub of water. It was very cold and he was in his little night shirt. He was all trembling. He rushed out of his back door as though some one was behind him. He was 'snuffling' as though he wanted to cry and was afraid."

"What kind of tub was it?"

"A large zinc tub—under a spout to catch rain water."

"Were you called on the night of Ralph's death?"

"Yes, she called me twice. She asked me to come. I asked her what was the matter. She said Ralph was dead. I said I was too nervous, but I would get word to the neighbors and send some one to her. My husband was ill and I could not leave him. It was about 8 o'clock."

Cross Examination.
Cross examination by Mr. H. M. Smith: "How many times did she call you?"

"Twice."

"How many times did she come to the fence?"

"The first time she stood by a tree and asked me to come to her. I said what was the matter, and she said that Ralph was gone."

"The second time she came to the dividing fence and called again. She asked me the same thing. I had just gotten back to my husband. I came out again on my side porch. She said three or four times 'Ralph is gone' and then she said 'Ralph is dead.'"

"How many times did she tell you in all that Ralph was dead?"

"Six or eight times. I said I couldn't come but that I would send a neighbor."

"Did she say over and over again, 'Ralph is gone'?"

"Yes."

"You said that you were Mrs. Smith's

used.)

"Have you seen her whip him more than once with a razor strap in your life?"

"Yes, a lots of times. Come off the roof. I haven't known her all my life."

"How many times have you seen her whip him with a stick?"

"Lots of times."

"Have you ever seen her use this stick?"

(Long round stick)

"Have you ever seen the square stick?"

"No, sir."

"You said you had?"

"You are sadly mistaken."

(Witness denied this and record was read to prove that she did.)

"I don't know whether I did or not."

"Did you ever see her strike him with the square stick?"

"Yes, often."

"Then you were mistaken in what you said to Mr. Page?"

Witness refused to answer.

"Did you ever see her whip him with the long round stick?"

"No."

"What did you do with the key when she locked Ralph up and went to Richmond?"

"I took it home."

Mr. Page announced that there were no more witnesses for the Commonwealth.

Defense Opens.

The court then took a recess of twenty minutes, in order to allow the defense to call its witnesses. The jury spent this time on under the trees in charge of Deputy Sergeant Smith.

When court reconvened Mr. Lionel Ashburner was called by the defense. Mr. Ashburner, having been sworn, in answer to questions, said that he resided for many years in Henrico county. That he was a naturalized citizen, having been born in England; that he was thirty-three years of age, and that he now lives in Columbia, Fluvanna county.

"When did you first meet Mrs. Smith?"

"Seven or eight years ago."

"Where?"

"In Brooklyn."

"Were you married then?"

"Yes."

"Did Mrs. Smith ever come to your house?"

"Yes; and Mr. Smith came with her. They were known as Mr. and Mrs. Smith, and they were married."

"When was this?"

"Early in 1899."

"How long was this before Ralph was born?"

"Six or seven months."

"When did you leave Brooklyn?"

"About the end of 1899."

"Were you living in Brooklyn when Ralph was born?"

"Yes."

"When did you next see Mrs. Smith?"

"She came to visit us out by Mr. Joseph Bryan's place. It was in 1903. Mr. Smith came to see her while she was with us."

"When did you next see her?"

"All the family came to board with us in Fluvanna."

"When was that?"

"In November, 1903."

"How long did they stay?"

"Over four months."

"Did you see much of them?"

"Yes."

"What was her manner towards the children?"

"She treated them well."

"Did she treat one better than the other?"

"No, sir."

"It has been said here that she whipped Ralph. Have you seen her whip him?"

"Yes, with a switch; but not harder than I give mine."

"Have you seen her punish him in any other way?"

"Yes; tying his hands behind him."

"Do you know of any vice the child had?"

"Yes."

"What was it?"

(Witness here described what vice was.)

"Why did they leave your house?"

"Because I had to request Mr. Smith to take Ralph away, for I did not want my children to learn the habit. I told him that he must go."

"Are you sure of this?"

"Yes, I am. We talked often about it."

"Why did this vice of her child effect Mrs. Smith?"

"It worried her a great deal, and she

one spoke to him, and he seemed frightened all the time."

Mr. Ashburner then stood aside.

Mrs. Ashburner Called.

Mrs. Lionel Ashburner was then called. She was born in Canada and is the daughter of Dr. Vaughan Lloyd.

"When did you first meet Mrs. Smith?"

"I met her on Staten Island at the home of my aunt. Mrs. Smith was stopping there."

"When did you meet Mr. Smith?"

"In 1898."

"When did you know that they were married?"

"In June of 1899. She came to our house, in Greene Avenue, and said that they were married. We were the only ones who were told, as I believe. She said she had been married by an alderman."

"When did you next see her?"

"She came to see us just outside of Richmond."

"When next?"

"At Columbia, when the family came to live with us, to board."

"When was that?"

"November, 1903."

"Are you any relation?"

"No."

"Why did they leave?"

"On account of Ralph. I thought, he was not a fit companion for my children."

(Witness here explained in detail about the child's vice, and the means that were taken to attempt to cure him. She stated that they had consulted medical books concerning the matter.)

"Have you ever seen her whip him?"

"Yes; but not more than any one else would whip a child."

"Did you ever see her abuse the child?"

"No."

"Was she nervous on account of the child's habits?"

"Yes."

"Was she suffering herself on account of any trouble she had?"

"Yes, and has been for years."

(Witness here entered into a description of the trouble.)

"What were the characteristics of the child?"

"He was very stupid."

"Did you ever notice?"

"He was listless and dull, and did not care to play with children."

"Did his mother try to make him play?"

"Yes."

"Was he nimble?"

"He was stiff-jointed. I should say he was awkward and clumsy."

"Did you speak to him suddenly, what would he do?"

"He would start, and sometimes he would cry out."

"Would he bruise himself when he fell?"

"Yes."

"Did the bruises disappear quickly?"

"Yes."

Cross Examination.

Cross-examination by Mr. Page: "You are the close friend of Mrs. Smith?"

"Yes."

"When did you first notice the habit in the child?"

"I saw him first come to board with us."

"Did any one ever call your attention to it?"

"I told Mrs. Smith, who said she had noticed it, and who asked me what she should do."

"Did she see a doctor about the habit?"

"No."

(Mr. Page asked questions here, to which Mrs. Smith objected. The court sustained the objection.)

Mrs. Ashburner was then allowed to stand aside.

Mr. W. J. Carter, of Manchester, drug-gist, was then called. After being sworn, he said:

"I have known Sheppard K. Smith since last September, at which time he came to live with me in Fluvanna county."

"Have you ever seen him with his children?"

"Yes, time and time again. His attitude was kind and fatherly. His attitude was kind and fatherly."

"Did he show any difference?"

"No."

"Did you ever see Mrs. Smith with the children?"

"Yes."

"What was her attitude?"

"The same as Mr. Smith's."

Cross-examination by Mr. Page: "Where did you see them?"

"In my drug store."

Mr. Carter was then told to stand aside.

Witness Refuses to Come.

Sergeant Saunders reported to the court that John Jordan, a witness summoned for the defense, refused to obey the order of court to come for examination.

Dr. Frazier Smith was then called.

"You state your name and profession?"

"Frazier Smith, veterinary surgeon."

"Where is your place of business?"

"Tenth Street."

"How long have you known Mr. and Mrs. Sheppard K. Smith?"

"Since March a year ago."

"Have you seen Mr. Smith with his children?"

"Yes."

"How many times?"

"Eight or ten times."

"How did he treat his children?"

"Like an affectionate father."

"Did he make any difference between his children?"

"No."

"What did I see. He used to keep his children over in Richmond for hours at a time."

"What kind of man is Smith?"

"He is kind and but no one."

"Did you employ him?"

"Yes, and my next door neighbor, Mr. Crum, also employed him."

"Are you any kin to any of them?"

"No, sir."

Mr. Frazier declined to cross-examine witness, who stood aside.

Mr. M. J. Crum was next sworn. He is a lively, capable keeper, on Tenth Street, in Richmond.

"Was Smith in your employ?"

"Yes, for six months."

"Was he a quiet man?"

"Yes, the quietest man I ever had around me."

"Have you ever seen him with his children?"

"Only with Ralph, twice. He brought him over about 10 o'clock and kept him until 11 o'clock."

"What was his manner to the child?"

"He was very affectionate towards him. He was kind and often of his wife and family."

Mr. Page declined to cross-examine witness, who stood aside.

On account of the witness who had refused to come to court, was brought in by Deputy Smith.

Mrs. Alice Hicks was sworn. She resides at No. 142 North Twenty-first Street.

"Do you know Mrs. Smith?"

"Very well."

"Where did she live?"

"Next door."

"Did you talk to each other without leaving your houses?"

"Yes."

"How long did she live there?"

"From March until September."

"Did you like her?"

"Yes, I liked her splendidly."

"Did you know anything about Ralph's vice?"

"Yes."

(Witness here went into a description of the evil habits of the child.)

"Did you ever see any difference in her treatment of the two children?"

"No, sir; I never saw any difference."

Cross-examination by Mr. Page: "Did you ever see Mrs. Smith beat Ralph?"

"No, I never did. I never saw her whip the child in my life."

"Did you ever see Mrs. Smith beat Ralph?"

"No, sir; I never saw her whip the child in my life."

Mr. H. H. Hicks was the next witness for the defense.

Mr. Hicks is the husband of Mrs. Alice Hicks.

"How long have you known the Smiths?"

"About seven months, before their coming to Manchester."

"Do you know anything about their punishment of the child?"

"Yes, for evil habits."

(Witness here went into a description of the habit and what was done to break him.)

Mr. Page, addressing the court, asked that the testimony be stricken out as not being evidence, Judge Clifton ruled that the testimony was proper.

"Did you ever know of their making a difference between their children?"

"No, they treated them the same. Mr. Smith treated them fine. He went down in the field and brought sand for them to play with."

Cross-examination by Mr. Page: "You say you never saw the Smiths beat Ralph?"

"I never did."

"Did you not tell some one that you had seen them beat him?"

"No, sir."

"You never saw them put him in a bag?"

"No, sir."

"You do not know whether or not the neighbors set up a petition asking them to leave?"

"No, sir; they stood aside."

Mr. John Jordan then took the witness stand.

"Do you live in Manchester?"

"Yes."

"How far from the Smiths' house?"

"About one square."

"What did he buy?"

"Candy."

"How often did he come?"

"Sometimes twice a day."

"Did his father come with him?"

AFTERNOON SESSION.

Number of Important Witnesses Examined, Including Dr. Hodges.

Court reconvened at 3:30 o'clock, and Mrs. Mattie M. Light, of the Rescue Mission, was put upon the stand for the defense.

"Where do you live?"

"No. 310 West Grace Street."

"Who is your husband?"

"He is an evangelist."

"What is his work?"

"In rescue work."

"What is that?"

"Work for fallen women."

"Have you had in your work children who were given to evil habits?"

"Yes; I have had seven cases."

"How old were the cases?"

"I have had them as young as two years, perhaps younger."

Mrs. Light then went into a discussion of the question, giving cases that had come under her notice. She stated that the children who were addicted to the habit were effected in many ways. Skin would be bad, internal arrangements out of order, hair drops out.

"Witness testified that children who were afflicted were at a low state of health, and stated that she had known cases when, if the child had been spanked, it would have died."

Judge Clifton objected to hearsay answers of witness and threatened to send her to jail.

Mr. H. M. Smith objected to language of the court and noted an exception.

"Did you learn that I was coming to see you through a reputable physician of the city of Richmond?"

Question ruled out.

Cross-examination by Mr. Page: "In your experience, do you not think that the habit is a disease?"

"I have had seven cases since I've been in the work. Two have died and two have been cured."

(Witness again went into a detailed description of the cases.)

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condition of the children whom she had noticed.)

Dr. Hodges Called.

Dr. J. Allison Hodges was next called to the stand. He stated that he had practiced medicine for twenty years. He was president of the University College of Medicine until last Saturday, when he was succeeded by Dr. Stuart McGuire. He is now professor of nervous diseases in the University College of Medicine.

"Is there any doubt that the disease is induced in by children of tender years?"

"No."

"What is the effect of the disease?"

"At first they would be physical and then mental."

(Witness here went into a discussion of the effects of the evil habit upon the child.)

Mr. H. M. Smith stated a hypothetical case, outlining the history of Ralph Smith and the state of his health, his condition and moods, and then asked the question if such a case could not have been added to the evil habit spoken of.

Dr. Hodges: "All of those are symptoms of the ordinary cases except the half falling out."

"May not a child die from a slight blow that puzzles all physicians?"

"Yes."

"Would not a much less blow cause death, such as in the case of a child that was very debilitated?"

"Yes."

"What would be the effect upon a woman's mind who was suffering and had suffered for a number of years with woman's trouble, who had a child who was addicted to that vice and who practiced it several times a day? It means a woman of high strung nervous temperament?"

"The effect would be irritated in her mind."

"What would this irritated effect lead to as far as mental irresponsibility is concerned?"

"Not necessarily mental irresponsibility."

"Could it follow?"

"It might, but a number of other factors would have to be considered. A systematic study of the case would have to be made."

"How long do you suppose it would take to examine the patient?"

"Would it be preferable to make the examination alone?"

"Yes."

"Could you make the examination with the full physician present, unless you felt that he was in harmony with you?"

"No, sir."

"Did I know what your answers would be?"

"No, sir."

Cross-examined by Mr. Page: "You did not mean to imply that you were not in favor of a non-partisan board to enquire into sanity?"

"I meant to imply that I would not care to make an examination in the presence of a medical man whose mind was not open to conviction."

Judge Clifton interrupted to warn the witness to be careful of his answer, for he said the case would be a noted one and that he must care for his reputation.

Mr. Smith objected to the court addressing such remarks to the witness, as he had not spoken in this way to the experts for the prosecution. Exception was noted, and Judge Clifton stated that he had confidence in Dr. Hodges.

Dr. Hodges then continued to answer technical questions regarding the health of the child.

Mr. Page asked the hypothetical question he has asked all the experts, describing the condition of the child before and after death.

Mr. Smith objected.

The court ruled out the question.

Mr. H. M. Smith then cross-examined witness, and Dr. Hodges stood aside.

Judge Clifton then adjourned court until this morning at 10 o'clock.

Goes to Highest Court.

Judge James Keith, President of the Supreme Court of Appeals of Virginia, yesterday certified in the United States Supreme Court the record in the case of Halbriton vs. the Danville and Western Railway. The case is one growing out of the exercise by the State of the right of eminent domain, and its hearing promises to bring up some very interesting questions. Certain lands of the plaintiff were condemned for the use of the railway line, and from the court's ruling thereon, this appeal was had to the Supreme Court of Appeals of Virginia.

Chief Justice Fuller issued a writ of certiorari resulting the Virginia Supreme Court of Appeals to certify the record to that court. The case goes up on constitutional questions.

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